IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Stay Application No. 11015 of 2006
In
Writ Petition No. 1078 (M/B) of 2006

1. Gangotri Human Resources and Development Society, a society duly registered under Societies Registration Act, 1860 having its registered office at 11 – A, Gangotri Nagar, Dandi Reva Road, Allahabad and its Dental College at Hardwar Road, Majri Grant, Dehradun.

2. Uttaranchal Dental & Medical Research Institutie, Hardwar Road, Majri Grant, Dehradun through its Chairman Sri D. S. Pandey.

……Petitioners

V e r s u s

State of Uttaranchal service
Through Principal Secretary,
(Health & Education),
Uttaranchal, Dehradun. **…….Respondents**

Coram:
Hon'ble P. C. Verma, J.
Hon'ble M.M. Ghildiyal, J.

Heard Sri V.K. Kohli, Sr. Advocate, assisted by Sri I. P. Kohli, learned counsel for the petitioners and Sri B. D. Kandpal, learned standing counsel for State of Uttaranchal on behalf of respondent.

Petitioner is a newly opened recognized BDS teaching Institute. Recognition was granted to the Institute on 15.07.2006. As per direction of Hon'ble Apex Court after obtaining permission from Dental Council of India, petitioner institute applied for allotment / allocation of 25 candidates from State quota on 20.07.2006, which was received by State Government on 21.07.2006. As per State Government, first counselling was completed by 16.07.2006. Second Counselling was held in between 25 – 28 August 2006. Before holding second

counselling, seats of 25 candidates are to be filled in the newly created petitioner Institute. Request was received by the State Government on 21.07.2006, therefore, it is incumbent upon the State Government to have allocated 25 candidates to the petitioner Institute in second counselling which was held on 25 – 28 August but the State Government did not allocate 25 candidates.

It is stated that request was submitted within the time schedule as framed by Hon'ble Apex Court in case of Mridul Dhar (minor) and another Vs. Union of India reported in AIR 2005 SC page 666 in para 11 of the judgment. Instead of allocating the candidates, government by impugned letter dated 23.08.2006 refused to allocate the candidates whereas the second counselling was held after refusal. Aggrieved with the refusal order petitioner filed present writ petition.

Learned standing counsel is directed to communicate the respondent to allocate the candidates to the petitioner Institute as it is newly recognized college and seats will go vacant if the candidates are not allocated and candidates, who get allocated would also be denied admission.

In para 14 of the aforesaid judgment the Hon'ble Apex Court has held as under:

The academic session commences between 1st August and 31st August and the last date for joining MBBS / BDS courses is 30th August. However, students can be admitted against vacancies arising due to any reason by 30th September. The date 30th September is not for normal admission but is to give opportunity to grant admissions against stray vacancies. The adherence to the time schedule by everyone is paramount for the timely grant of admissions, commencement of academic session and for closure of the admissions,

after 30th September each year. In fact, the timely holding of 10+2 examination and declaration of its results is also of paramount importance for the entire admission process. If the results of CBSE or other equivalent examinations are not declared well before the commencement of first round of counselling / admission of all India quota seats i.e. 20th June, it is likely to adversely affect the candidates who may otherwise be to toppers in the All India Entrance Examination. A candidates may be in the first 200 positions, out of about 2,00,000 candidates in the merit ranking but if the results of his qualifying examination of CBSE or its equivalent are not available to him or to DGHS responsible for counselling, the candidate would lose chance to get admission in the college of his choice despite his merit position.

Now by today, the counselling schedule is over, we cannot direct the respondent to hold third counselling for allocation of the candidates, as State Government has itself refused, therefore, we leave to the college to fill up these 25 seats before 30.09.2006 from the candidates, who appeared in the Uttaranchal PMT by taking list from State Government strictly in accordance with merit of those who have not been admitted.

With this direction, the writ petition as well as Stay Application No. 11015 of 2006 is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J) **(P.C. Verma, J)**

September 5, 2006
SKSharma